

REVISED SMALL BUSINESS IMPACT STATEMENT

REDUCTION IN FUEL SULFUR CONTENT

RCSA sections 22a-174-19, 22a-174-19a, 22a-174-5(a), 22a-174-5(b)(1), 22a-174-19b

Prior to adopting a new section or amendment, section 4-168a of the Connecticut General Statutes (CGS) requires that each state agency consider the effect of such action on small businesses as defined in CGS section 4-168a. When such regulatory action may have an adverse effect on small businesses, CGS section 4-168a directs the agency to consider regulatory requirements that will minimize the adverse impacts on small businesses if the addition of such requirements (1) will not interfere with the intended objectives of the regulatory action and (2) will allow the new section or amendment to remain consistent with public health, safety and welfare.

State Agency Submitting Proposed Amendment: Energy and Environmental Protection (DEEP)

Date: December 16, 2013

Subject of Regulation: Reductions in fuel sulfur content

Estimate Prepared By: Wendy Jacobs Telephone No.: 860-424-3457

In accordance with CGS section 4-168a, staff analyzed the effect on small businesses of the proposed regulations and determined the following:

Check all appropriate boxes:

- ☒ The regulatory action will not have an effect on small businesses.
- ☒ The regulatory action will have an effect on small businesses, but will not have an adverse effect on such small businesses.
- ☒ The regulatory action may have an adverse effect on small businesses, and no alternative considered would be both as effective in achieving the purpose of the action and less burdensome to potentially affected small business. Alternatives considered include the following:
- (1) The establishment of less stringent compliance or reporting requirements for small businesses;
 - (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - (3) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - (4) The establishment of performance standards for small businesses to replace design or operational standards required in the new section or amendment; and
 - (5) The exemption of small businesses from all or any part of the requirements contained in the new section or amendment.

- ☐ The regulatory action will have an adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

Explanation: Any small business in the state that is involved in fuel sales or distribution or that burns fuel oil in stationary equipment for a purpose other than heating a building is potentially impacted by this proposal, although the proposal is not expected to add significant new monetary obligations on fuel sellers. Sellers must obtain and sell fuel that complies with the sulfur content limitations and maintain records of the sulfur content and quantity of fuel sold. These obligations should be addressed within the standard operating costs of the business. Small businesses that are fuel users will be able to comply with the proposal without retaining a consultant or other professional.

Connecticut has approximately 500 fuel oil dealers in Connecticut¹. It is unknown what percentage of fuel oil dealers/fuel oil users in Connecticut are small businesses. According to a 2013 publication by the U.S. Small Business Administration, Office of Advocacy, small businesses in Connecticut numbered 326,439 in 2010. Most of Connecticut's small businesses (77.9%) have no employees.² Therefore, in 2010 there were approximately 72,143 small businesses with employees in Connecticut. 2011 EIA data indicate that 46.3% of fuel oil in Connecticut is consumed for home heating purposes³, and home heating oil is not subject to regulation under this proposal.

It is possible that small businesses that purchase fuel oil will experience a price increase for low sulfur fuel oils compared with current prices. Whether such a price increase will be experienced, and, if so, the magnitude of a future price increase is not possible to predict. Fuel oil prices are influenced by many factors, which cannot be accurately predicted and could singly or in combination overwhelm any cost impact related to the lower sulfur content requirements. It is not anticipated that reporting, record keeping and administrative costs for small business fuel sellers and fuel users will increase as a result of the proposal because fuel sellers and fuel users are already required to maintain records for compliance purposes. This proposal adds no significant or unduly burdensome newer record keeping on fuel users. The proposal requires that users maintain records of purchases and certifications provided by the seller.

The restrictions on the use of lower sulfur content fuels are scheduled for several years in the future, when a sufficient supply of low sulfur fuel should be readily available as other states in the region have adopted or are in the process of adopting similar requirements. Fuel users will be able to purchase lower sulfur fuel on their normal purchase schedule as the proposal allows users to use an existing supply of fuel oil without any requirement to remove and dispose of higher sulfur content fuel after the compliance date.

Any potential increased fuel costs will likely be offset by lower boiler maintenance costs and higher fuel efficiency, because reducing the sulfur content of fuel oils lowers the rate of boiler fouling.⁴ The sulfur in fuels contributes to the corrosiveness of combustion byproducts; therefore, the use of low sulfur fuel can extend boiler life. Reducing the sulfur content of fuels could decrease the cost of new oil-burning equipment because, with reduced corrosivity and fouling, boilers could potentially be constructed using lower-cost materials and be designed with more compact heat exchangers.⁵

Connecticut is required under the Clean Air Act to meet the health-based national standards for fine particulate matter and improve visibility in Class I areas, which requires reducing air pollutant emissions. DEEP has determined that to exempt small businesses from any requirements or to reduce any requirements would compromise the air quality goals of the amendment and would likely not be feasible, since there is unlikely to be a ready supply of higher sulfur fuel oil available after the transition to low sulfur fuel oil has occurred.

-
- ¹ Average of www.manta.com and www.hotfrog.com estimates.
 - ² *Small Business Profile: Connecticut*, U.S. Small Business Administration, Office of Advocacy, February 2013
<http://www.sba.gov/sites/default/files/ct12.pdf>
 - ³ Energy Information Administration, Connecticut State Profile and Energy Estimates November 21, 2013 update
<http://www.eia.gov/state/data.cfm?sid=CT&CFID=12987755&CFTOKEN=231e09fbfc4aba5f-D15570B8-25B3-1C83-54DF64F774443A9F&jsessionid=843067bb6c1c347184405c5e6fa3e131d673>, Consumption and Expenditures, Fuel Oil Consumption for Home Heating
 - ⁴ Lindemer, Kevin. March 2010. *Ultra-low Sulfur Diesel Fuel/Heating Oil Market Study*. <http://www.nora-oilheat.org/site20/uploads/lowsstudy.pdf>; hereafter Lindemer study.
 - ⁵ McDonald, Roger and John Batey. *Benefits and Advantages of Marketing Low Sulfur Heating Oil Including Results from a New York State Low Sulfur Market Demonstration*. (Paper No. 06-03)